

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, )  
Plaintiff, )  
 )  
v. )Criminal No. 04-10003-MEL  
 )  
METALOR USA REFINING CORPORATION, )  
Defendant. )

**MOTION FOR FINAL ORDER OF FORFEITURE**

The United States of America, by its Attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, respectfully moves that this Court issue a Final Order of Forfeiture in the above-captioned case, pursuant to Title 21, United States Code, Section 853, as incorporated by Title 18, United States Code, Section 982. In support thereof, the United States sets forth the following:

1. On or about January 8, 2004, the United States Attorney for the District of Massachusetts filed an Information charging Defendant Metalor USA Refining Corporation ("Defendant Metalor") with one count of Engaging in Monetary Transactions in Property Derived From Specified Unlawful Activity, in violation of 18 U.S.C. § 1957

2. The Information also contained a forfeiture allegation, which, as a result of the offense alleged in Count One, and pursuant to 18 U.S.C. § 982(a), sought the forfeiture of any property, real or personal, involved in such offense, or any property traceable to such property, including, but not limited to \$423,000.

3. In a Plea Agreement dated December 11, 2003, Defendant Metalor admitted that the \$423,000 constitutes property involved in a money laundering offense, and consented to the forfeiture.

4. On or about January 14, 2004, at a change of plea hearing, Defendant Metalor pled guilty to the Information and was sentenced by the Court to a term of probation of five years, a fine of 2,250,000.00, a special assessment fee of \$100.00, and was ordered to forfeit the \$423,00.00.

5. Based upon the evidence set forth at the January 14, 2004, plea hearing and the admission contained in the plea agreement dated December 11, 2003, the United States has established the requisite nexus between the \$423,000 and the offense to which Defendant Metalor has been convicted and sentenced, and therefore, the \$423,000 is subject to forfeiture to the United States pursuant to 18 U.S.C. § 982.

6. On or about February 2, 2004, this Court issued a Preliminary Order of Forfeiture, pursuant to 21 U.S.C. § 853(a), as incorporated by 18 U.S.C. § 982, and Rule 32.2 of the Federal Rules of Criminal Procedure, against Defendant Metalor's interests in the \$423,000.

7. On February 27, 2004, March 5, 2004, and March 12, 2004, a Notice of Order of Forfeiture was published in the Boston Herald Newspaper pursuant to 21 U.S.C. § 853(n), as incorporated by 18 U.S.C. § 982 (see Exhibit A attached hereto).

8. By virtue of Defendant Metalor's guilty plea and subsequent conviction, the United States is now entitled to any and all interest Defendant Metalor has in the \$423,000.

9. To date, no other claims of interest in the \$423,000 have been filed with the Court and the time within which to do so has expired.

WHEREFORE, the United States respectfully requests that this Court enter a Final Order of Forfeiture against the \$423,000. A Proposed Order is submitted herewith for the convenience of the Court.

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

BY: /s/Shelbey D. Wright  
ALLISON D. BURROUGHS  
SHELBEY D. WRIGHT  
Assistant U.S. Attorneys  
1 Courthouse Way, Suite 9200  
Boston, MA 02210

Date:

#### **CERTIFICATE OF SERVICE**

I, Shelbey D. Wright, Assistant U.S. Attorney, hereby certify that a true copy of the foregoing Motion for Final Order of Forfeiture, as well as a proposed Final Order of Forfeiture, was served upon J. William Codinha, P.C. and Melissa Bayer Tearney, Esquire, Nixon Peabody, LLP, 101 Federal Street, Boston, MA 02110-1832, as counsel for Defendant Metalor USA Refining Corporation, by first class mail, postage prepaid.

/s/Shelbey D. Wright  
Shelbey D. Wright  
Assistant U.S. Attorney

Date: